

REMARKS

The Office Action of October 4, 2004, has been carefully considered.

Objection has been raised to the drawings under 37 CFR 1.83(a) as they fail to show Figure 5 which was mentioned in the Brief Description of the Drawings, or the measurement arrangement described in the specification in the paragraph bridging pages 5 and 6. In addition, curve 10 described on page 6 of the specification is not found in any of the figures.

Figure 5 has now been added to the application. This Figure 5 can be found in the German priority application No. 19909852, but was inadvertently omitted from the filing of the PCT application. The elements of Figure 5 constitute the measurement arrangement described in the specification in the paragraph bridging pages 5 and 6, and as all elements, as well as their arrangement, are described in the specification, the addition of this figure adds no new matter to the specification. The specification has been amended to make reference to Figure 5 in this paragraph.

The description of the curve as element 10 on page 6 of the specification was in error, and page 6 has now been corrected to designate the curve as element 22.

The specification has also been amended to add subject matter headings.

Claims 1 through 5 have been rejected under 35 USC 112, second paragraph, as being indefinite.

Claim 1 has now been amended to define the invention as described in the specification and as shown clearly in Figure 1 of the drawings. Thus, for an individual, lactate concentration above the individual anaerobic threshold is measured and a curve of lactate concentration vs. time is

plotted. A first slope of the measured curve ( $\alpha_{IATS}$ ) is determined at the time point of the individual anaerobic threshold, and at least one more slope of the measured curve at a time point  $t_x > t_{IATS}$  ( $\alpha_x$ ) is determined. The second slope is then subtracted from the first slope to determine the difference  $\Delta A$ .

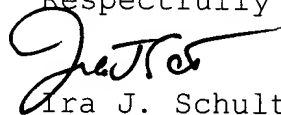
Claims 2, 3 and 4 have been amended so that all terminology has antecedent basis.

With regard to Claim 5, the subtraction parameter is described in EP Patent Publication 742693, cited on page 3 of the specification. As this subtraction parameter is not fully described in the present specification, Claim 5 has been canceled.

The allowability of Claims 1 through 5 over the art has been noted.

In view of the foregoing amendments and remarks, Applicant submits that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



Ira J. Schultz  
Registration No. 28666

**IN THE DRAWINGS:**

Please enter into the application Figure 5 as attached hereto, and labeled "REPLACEMENT PAGE."